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SUBJECT: AFGHAN JUDGES TAKE TO AMERICA

¶1. (U) Summary: Four women judges from Kabul participated in a study trip to the US. During their three-week trip, the judges obtained a bird's eye view of the administration and operations of Vermont,s rural court system and held constructive discussions with key USG officials about the status of Afghan courts. In a roundtable discussion, the judges expressed concerns about the lack of infrastructure, particularly security in Afghan courts. The judges also spoke to the challenges regarding implementation of new laws, including the counter narcotics (CN) law. All agreed that continued assistance from the US and the international community regarding training, court infrastructure and development is necessary to ensure the success of the judicial sector. End Summary.

¶2. (SBU) Four women judges from Afghanistan,s various judicial sectors traveled to the US on May 30 to participate in a two week study of the Vermont judiciary. The judges, Supreme Court Associate Judge Aseta Kakar, Public Security Court of Appeals Judge Karima Ahmadi, Commercial Tribunal Court Judge Safeya Zarif and Appellate Court for Narcotics Judge Nafisa Kabuli, had the opportunity to observe court administration and operations in Vermont,s rural courts while living with local lawyers, judges and host families. The judges also spent a week in Washington where they had the opportunity to observe and discuss judicial issues at the local and federal level and meet with USG officials including Supreme Court Justice Ruth Bader Ginsburg.

¶3. (U) This trip, the second of its kind sponsored by INL and the International Association for Women Judges (IAWJ), is designed to expose Afghan women judges to legal institutions in the US. The judges said that they found the trip to Vermont especially useful because they learned a great deal about court procedures, which they believe must be established in Afghanistan, particularly record keeping, filing and general court structure.

¶4. (U) INL hosted a roundtable discussion at the Department on June 22 in cooperation with the Office for International Women,s Issues (G/IWI). In this forum, the judges talked about their experiences in Afghanistan. The judges told the assembly that they don,t feel safe in court and that often civil disputes can result in threats and occasionally death. Also, the judges said security procedures are very lax. Most people enter courtrooms without being searched, which has occasionally resulted in injury and death to judges and prosecutors.

¶5. (U) Recalling their experiences in Vermont, the judges talked about the disparate lack of judicial infrastructure in Afghanistan. All decisions are handwritten and there are virtually no procedures for record keeping. There is no bench book to provide an explanation of the relevant laws. Afghan

judges frequently confer with retired judges and legislators to interpret laws. Also, the judges talked about the lack of proper court facilities in Afghanistan saying few court rooms have electricity and running water. Judges lack space to use as chambers. In many cases defendants and witnesses sit next to judges during trial.

¶ 6. (SBU) Judge Nafisa Kabuli from the Appellate Court of the Central Narcotics Tribunal told the group that the narcotics courts in Afghanistan have many problems and highlighted the key issues of concern. She said that there is no security for police, prosecutors, or judges. Judge Kabuli believes the narcotics dealers are stronger than central government. She said the &big druglords8 never come to Kabul for trial, only low-level criminals who work for smugglers are tried (e.g., drivers and assistants). Seized drugs are never entered in as evidence. In most cases, the drugs have been destroyed and only paper testimony regarding the case exists.

¶ 7. (SBU) Judge Kabuli also expressed frustration about implementation of the new CN law; the CN law makes things more difficult and nobody understands it. She thinks that the law is not being widely implemented and understood and the MCN needs to do more to inform people about the CN law and its penalties. Judge Kabuli believes some people risk involvement in the narcotics trade because they do not know about law and the stricter penalties for narcotics-related offenses.

¶ 8. (U) Aside from infrastructure and procedural issues, the judges told the group that strong measures must be taken to curb corruption in the judicial sector. The judges support ethics training, better education for the judiciary, and better salaries for judges and court officials. The judges also believe that women, like themselves, are critical to

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implementing anti-corruption measures in the judicial sector and acknowledged that additional support from the US and the international community regarding training, infrastructure restoration and development is integral to ensuring the judiciary's success.

¶ 9. (U) Comment: Judge Kabuli's comments, while striking, do not completely reflect on-the-ground realities. To be sure, more needs to be done to ensure the safety of judges and court officials, facilitate prosecution of &drug king pins8, and train on the new Counter Narcotics (CN) Law. However, the court in which Judge Kabuli serves is located within a secure police compound guarded 24 hours a day by CNPA personnel; in fact, it is considered the most secure court facility in all of Afghanistan. DOJ also has a program on-tap for late 2006, in which the US Marshal Service will provide and build capacity for witness and court protection.

¶ 10. (U) Judge Kabuli also points out that few &big8 drug cases are being tried in Kabul. In fact, the main focus of the Criminal Justice Task Force (aka VPTF) is to develop mid-and high-value target cases for prosecution in the Central Narcotics Tribunal, and several cases are starting to come on line.

¶ 11. (U) In her comments, Judge Kabuli implied that the destruction of drugs negatively affects the prosecution of drug cases. As prescribed under the new law, drugs are destroyed at the location of the seizure after sampling and weighing. Lastly, Judge Kabuli contends that the CN law is confusing and is not being widely implemented. We would challenge that assertion, but in any case DOJ is taking steps to ensure that all judges and prosecutors have a working knowledge of the law, e.g., DOJ will begin an intensive training program on the new CN law on July 8. Post is working to ensure that all aspects of the justice sector are strengthened and anticipates that judges like these women will be important partners as the reform process moves forward. End Comment.

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